

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 2, 2010 has been entered.

### ***Response to Amendment***

2. The declaration under 37 CFR 1.132 filed November 2, 2010 is insufficient to overcome the rejection of claim 59, now cancelled and its limitations presented in new claim 84, based upon the rejection of claim 59 (and herein claim 84) under 35 U.S.C. 112 as set forth in the last Office action because the declaration only serves to support the examiner's position. Specifically, a collection of arbitrary data from different publications measuring the peel forces of widely varying adhesives does not support the applicant's position that one of ordinary skill in the art, only given the recited separation (peel) force range, would be readily able to choose both a pop-off securing fastener substrate and a diaper back sheet material that would yield a separation force within that range. The emphasized (e.g. underlined) portions of the attached publications only show data that would meet the limitation. The descriptions of the adhesives producing the data or graph shown in Fig. 5-16 and Table 5-4 of the attached publication is not fully described in the publication; in the case of Fig. 5-16 only the sodium content of the adhesive is revealed and in the case of Table 5-4, that data appears to be tied to several other publications, none of which are cited or attached to the declaration, yielding no description for

the adhesives or materials involved.. Therefore, no new evidence is present that convinces the examiner that one of ordinary skill in the art, without undue experimentation, can arrive at a pop-off fastener material and backsheet material combination that would yield a separation force in the claimed range.

### ***Response to Arguments***

3. The rejection of independent claims 53 and 70 are withdrawn in view of the amendment to the claims.
4. Applicant's arguments filed November 2, 2010 with respect to independent claims 72-76 as anticipated by Tanzer have been fully considered but they are not persuasive. With respect to claims 72-74, applicant merely states that the Tanzer reference does not anticipate all of the limitations but does not specifically state why. As the examiner's position is made clear and all limitations fully addressed, the rejection of claims 72-74 under 35 U.S.C. 102 over Tanzer are maintained. With respect to claim 75, as stated in the rejection of claim 52, Tanzer also discloses a plurality of strip-shaped spots.
5. With respect to new independent claim 78, Tanzer discloses in paragraph 0058 that adhesive is present on the exposed surface of layer 78, thus the pop-off securing fasteners, i.e. the fastener area outside the spots 64, comprise a free adhesive layer capable of attaching to a backsheet.
6. The rejection of claim 53 under 35 U.S.C. 112 is withdrawn in view of the amendment to the claims.

***Election/Restrictions***

7. Claim 77 as amended is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: If claim 77 were presented as currently written in the original claims, an election of species requirement would have been made. Specifically, the act of severing the hooks or the severed hooks themselves are not an obvious variant of unsevered hooks, as the hooks, when severed, lose crucial surface area needed in the engagement with the mating fastener components thus requiring additional hooks or stronger mating components, and thus are not an obvious variant of an unsevered hook.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 77 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claim 84 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Subject matter critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). The disclosure merely alludes to fastener tapes in other foreign

patents, which is not sufficient to enable any of the recited ranges for separation force for the adhesive adhering to the recited diaper.

***Information Disclosure Statement***

10. The information disclosure statement (IDS) submitted on November 2, 2010 was filed after the mailing date of the final rejection on May 3, 2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 102***

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
12. Claims 29, 31, 33, 35, 66, 72-75, 78, 80 and 82 are rejected under 35 U.S.C. 102(a) as being anticipated by Tanzer et al (U.S. Patent Application Publication No. 2003/0009144)

With respect to **claim 72**: Tanzer discloses a fastening tape 60 for a hygiene item comprising the following: (a) a fastening area in the form of manufacturer's bond end 84 for permanent attachment to the hygiene item; (b) a closing area in the form of user's end 82 for simultaneous detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area, namely fastener islands 64, having a shear-off securing component of a two-component mechanical fastening system 64,78, said second area, the collective area defined by adhesive areas 78, having a pop-off securing fastener; (c) a plurality of spot-shaped carriers in the collective form of spots 64,66,68,80 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing

component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers configured as edge spots, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier (Fig. 5); (d) a fastening carrier in the form of first flexible layer 72 fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area in the form of "well-defined lines of flexibility", interpreted herein as bending lines. (¶0068) The plurality of spot-shaped carriers 64 comprises at least one central spot having a spot edge situated within the carrier area and at least one edge spot having a spot edge situated at a tape edge. (Fig. 5)

With respect to **claim 73**: Tanzer discloses a fastening tape 60 for a hygiene item comprising the following: (a) a fastening area in the form of manufacturer's bond end 84 for permanent attachment to the hygiene item; (b) a closing area in the form of user's end 82 for simultaneous detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area, namely fastener islands 64, having a shear-off securing component of a two-component mechanical fastening system 64,78, said second area, the collective area defined by adhesive areas 78, having a pop-off securing fastener; (c) a plurality of spot-shaped carriers in the collective form of spots 64,66,68,80 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers configured as edge spots, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier (Fig. 5); (d) a fastening carrier in the form of first flexible layer 72 fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area in the form of "well-defined lines of flexibility", interpreted herein as bending lines. (¶0068) The plurality of spot-shaped carriers

64 comprises plurality of circular spots and at least one semicircular edge spot necessarily having a chord running through the mid-point of the at least one semi-circular edge spot along a boundary of the carrier area inasmuch as a chord is simply a line that connects one point on the perimeter of the circle with another on the same perimeter.

With respect to **claim 74**: Tanzer discloses a method for closing a diaper comprising the steps of: (a) providing a diaper 20 having a wing, a landing zone on the surface 36 of the backsheet, and a fastening tape 60, the landing zone comprising a surface area of a textile back sheet [0075], the fastening tape comprising a fastening area for permanent attachment to the diaper, a closing area for simultaneous detachable joining to a surface of the diaper, said closing area comprising first and second areas, said first area having a shear-off securing component of a two-component mechanical fastening system and said second area having a pop-off securing fastener, a plurality of spot-shaped carriers 64 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier, a fastening carrier fastened to said spot-shaped carriers and a bending line running through the carrier area; and (b) closing the diaper by establishing a connection between the closing area of the fastening tape 60 on the diaper wing and the landing zone. (¶0050)

With respect to **claim 75**: Tanzer discloses a method for producing a diaper-fastening tape comprising the steps of: (a) first applying spots 64 to a plurality of diaper-fastening tapes that are adjacent in the machine direction; and (b) then separating the tapes to yield their final

shape. (¶¶0097-0099) Each fastening tape comprises a fastening area for permanent attachment to the diaper, a closing area for simultaneous detachable joining to a surface of the diaper, said closing area comprising first and second areas, said first area having a shear-off securing component of a two-component mechanical fastening system and said second area having a pop-off securing fastener, a plurality of spot-shaped carriers 64 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier, a fastening carrier fastened to said spot-shaped carriers and a bending line running through the carrier area.

With respect to **claims 78,80**: Tanzer discloses a fastening tape for a hygiene item comprising: (a) a fastening area, indicated generally by character 60 in Fig. 5 for permanent attachment to the hygiene item (Figs. 5,8, [0043]); (b) a closing area for simultaneous detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area having a shear-off securing component, islands 64, of a two-component mechanical fastening system comprising first and second edge strips inasmuch as the islands may be rectangular in shape [0061], and said second area having a pop-off securing fastener comprising an exposed adhesive between the first and second edge strips [0057]; (c) a plurality of spot-shaped carriers 64 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier, wherein a selected set of said plurality of spot-shaped carriers comprises identical strip-shaped spots [0061]; (d) a

fastening carrier 68 fastened to said spot-shaped carriers 64 [0043]; (e) a bending line running through the carrier area inasmuch Tanzer discloses "well-defined lines of flexibility" that are free of fastener islands 64. Thus, as can be seen in Fig. 5 there is at least one bending line that lies obliquely or normally to the direction of longitudinal extent of the fastener tape. [0068], wherein a border of the carrier area near a separation in the machine direction coincides with a longitudinal tape edge inasmuch as the spots extend throughout the fastener area, including the longitudinal tape edges.

With respect to **claim 82**: Tanzer discloses a strip material having a longitudinal direction of extent that can be divided by separating across the longitudinal direction of extent to form individual usages, fastener tapes 60. (§10099) Each fastening tape comprises the following: (a) a fastening area, indicated generally by character 60 in Fig. 5 for permanent attachment to the hygiene item (Figs. 5,8, [0043]); (b) a closing area for simultaneous detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area having a shear-off securing component, islands 64, of a two-component mechanical fastening system comprising first and second edge strips inasmuch as the islands may be rectangular in shape [0061], and said second area having a pop-off securing fastener comprising an exposed adhesive between the first and second edge strips [0057]; (c) a plurality of spot-shaped carriers 64 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier, wherein a selected set of said plurality of spot-shaped carriers comprises identical strip-shaped spots [0061]; (d) a fastening carrier 68 fastened to said spot-shaped carriers 64 [0043]; (e) a bending line running



through the carrier area inasmuch Tanzer discloses "well-defined lines of flexibility" that are free of fastener islands 64. Thus, as can be seen in Fig. 5 there is at least one bending line that lies obliquely or normally to the direction of longitudinal extent of the fastener tape. [0068]

With respect to **claim 29**: An adhesive layer disposed on surface 74 of fastener carrier 72 disclosed by Tanzer runs continuously within the entire carrier area underneath the spot-shaped intermediate carrier 64 so that said layer defines an open adhesive layer (i.e. lies open) between the spots. [0057]

With respect to **claim 31**: As can be seen in Fig. 4, the spots 64 disclosed by Tanzer have their own main direction of extent parallel to the longitudinal direction of the fastener 60.

With respect to **claim 33**: The bending lines disclosed by Tanzer are "well-defined lines of flexibility" that are free of fastener islands 64. Thus, as can be seen in Fig. 5 there is at least one bending line that lies obliquely or normally to the direction of longitudinal extent of the fastener tape. [0068]

With respect to **claim 35**: Tanzer discloses that "well-defined lines of flexibility", i.e. bending lines run exclusively in one direction or at least essentially in one direction through the carrier area inasmuch as the lines are defined by areas free of fastener islands which, as can be seen in Fig. 5 may run in at least one direction, which meets the limitation "at least essentially in one direction."

13. Claims 29, 31-33, 35, 40, 44, 53-55, 61, 64 and 66-77 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanzer et al ('144).

With respect to **claim 70**: Tanzer discloses a fastening tape for a hygiene item comprising: (a) a fastening area for permanent attachment to the hygiene item; (b) a closing area for simultaneous detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area having a shear-off securing component of a two-component mechanical fastening system and said second area having a pop-off securing fastener; (c) a plurality of spot-shaped carriers within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier; (d) a fastening carrier fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area.

With respect to **claim 71**: Tanzer discloses a fastening tape 60 for a hygiene item comprising the following: (a) a fastening area in the form of manufacturer's bond end 84 for permanent attachment to the hygiene item; (b) a closing area in the form of user's end 82 for simultaneous detachable joining to a surface of the hygiene item; (c) a plurality of spot-shaped carriers in the collective form of spots 64,66,68,80 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying a component, i.e. hooks, of a two-component mechanical fastening system (Fig. 5); (d) a fastening carrier in the form of first flexible layer 72 fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area in the form of "well-defined lines of flexibility", interpreted herein as bending lines. (¶0068) The carrier area

has a cohesive open adhesive area defined by adhesive areas 78 between the spot-shaped carriers 64. (Fig. 5)

With respect to **claim 72**: Tanzer discloses a fastening tape 60 for a hygiene item comprising the following: (a) a fastening area in the form of manufacturer's bond end 84 for permanent attachment to the hygiene item; (b) a closing area in the form of user's end 82 for simultaneous detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area, namely fastener islands 64, having a shear-off securing component of a two-component mechanical fastening system 64,78, said second area, the collective area defined by adhesive areas 78, having a pop-off securing fastener; (c) a plurality of spot-shaped carriers in the collective form of spots 64,66,68,80 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers configured as edge spots, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier (Fig. 5); (d) a fastening carrier in the form of first flexible layer 72 fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area in the form of "well-defined lines of flexibility", interpreted herein as bending lines. (¶0068) The plurality of spot-shaped carriers 64 comprises at least one central spot having a spot edge situated within the carrier area and at least one edge spot having a spot edge situated at a tape edge. (Fig. 5)

With respect to **claim 73**: Tanzer discloses a fastening tape 60 for a hygiene item comprising the following: (a) a fastening area in the form of manufacturer's bond end 84 for permanent attachment to the hygiene item; (b) a closing area in the form of user's end 82 for simultaneous

detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area, namely fastener islands 64, having a shear-off securing component of a two-component mechanical fastening system 64,78, said second area, the collective area defined by adhesive areas 78, having a pop-off securing fastener; (c) a plurality of spot-shaped carriers in the collective form of spots 64,66,68,80 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers configured as edge spots, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier (Fig. 5); (d) a fastening carrier in the form of first flexible layer 72 fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area in the form of "well-defined lines of flexibility", interpreted herein as bending lines. (¶0068) The plurality of spot-shaped carriers 64 comprises plurality of circular spots and at least one semicircular edge spot necessarily having a chord running through the mid-point of the at least one semi-circular edge spot along a boundary of the carrier area inasmuch as a chord is simply a line that connects one point on the perimeter of the circle with another on the same perimeter.

With respect to **claim 74**: Tanzer discloses a method for closing a diaper comprising the steps of: (a) providing a diaper 20 having a wing, a landing zone on the surface 36 of the backsheet, and a fastening tape 60, the landing zone comprising a surface area of a textile back sheet [0075], the fastening tape comprising a fastening area for permanent attachment to the diaper, a closing area for simultaneous detachable joining to a surface of the diaper, said closing area comprising first and second areas, said first area having a shear-off securing component of a two-component mechanical fastening system and said second area having a pop-off securing

fastener, a plurality of spot-shaped carriers 64 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier, a fastening carrier fastened to said spot-shaped carriers and a bending line running through the carrier area; and (b) closing the diaper by establishing a connection between the closing area of the fastening tape 60 on the diaper wing and the landing zone. (¶0050)

With respect to **claim 75**: Tanzer discloses a method for producing a diaper-fastening tape comprising the steps of: (a) first applying spots 64 to a plurality of diaper-fastening tapes that are adjacent in the machine direction; and (b) then separating the tapes to yield their final shape. (¶¶0097-0099) Each fastening tape comprises a fastening area for permanent attachment to the diaper, a closing area for simultaneous detachable joining to a surface of the diaper, said closing area comprising first and second areas, said first area having a shear-off securing component of a two-component mechanical fastening system and said second area having a pop-off securing fastener, a plurality of spot-shaped carriers 64 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, i.e. hooks, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier, a fastening carrier fastened to said spot-shaped carriers and a bending line running through the carrier area.

With respect to **claim 76**: Tanzer discloses a fastening tape 60 for a hygiene item comprising the following: (a) a fastening area in the form of manufacturer's bond end 84 for permanent attachment to the hygiene item; (b) a closing area in the form of user's end 82 for simultaneous detachable joining to a surface of the hygiene item; (c) a plurality of spot-shaped carriers in the collective form of spots 64,66,68,80 within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying a component, i.e. hooks, of a two-component mechanical fastening system (Fig. 5); (d) a fastening carrier in the form of first flexible layer 72 fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area in the form of "well-defined lines of flexibility", interpreted herein as bending lines. (¶0068) The closing area initially at least partially comprises hooks on spot-shaped carriers 64 and an otherwise open adhesive area defined by adhesive areas 78 between the spot-shaped carriers 64. (Fig. 5)

With respect to **claim 77**: Tanzer discloses a fastening tape for a hygiene item comprising: (a) a fastening area for permanent attachment to the hygiene item; (b) a closing area for simultaneous detachable joining to a surface of the hygiene item, said closing area comprising first and second areas, said first area having a shear-off securing component of a two-component mechanical fastening system and said second area having a pop-off securing fastener; (c) a plurality of spot-shaped carriers within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying a hook component of a two-component mechanical fastening system; (d) a fastening carrier fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area. The plurality of spot-shaped carriers comprises a plurality of edge spots with a sharp-edged edge section. (Fig. 5)

With respect to **claim 29**: An adhesive layer disposed on surface 74 of fastener carrier 72 disclosed by Tanzer runs continuously within the entire carrier area underneath the spot-shaped intermediate carrier 64 so that said layer defines an open adhesive layer (i.e. lies open) between the spots.

With respect to **claim 31**: As can be seen in Fig. 4, the spots 64 disclosed by Tanzer have their own main direction of extent parallel to the longitudinal direction of the fastener 60.

With respect to **claim 33**: The bending lines disclosed by Tanzer are "well-defined lines of flexibility" that are free of fastener islands 64. Thus, as can be seen in Fig. 5, there is at least one bending line that lies obliquely or normally to the direction of longitudinal extent of the fastener tape.

With respect to **claim 35**: Tanzer discloses that "well-defined lines of flexibility", i.e. bending lines run exclusively in one direction or at least essentially in one direction through the carrier area inasmuch as the lines are defined by areas free of fastener islands which, as can be seen in Fig. 5 may run in at least one direction, which meets the limitation "at least essentially in one direction."

With respect to **claim 40**: A plurality of spot-shaped carriers 64 disclosed by Tanzer comprises a plurality of spots having a varying edge in the machine direction, and arranged in levels extending in the direction of the longitudinal extent of the fastening tape over the effective width of the carrier area, each level being separated from an adjoining level by a distance in the

machine direction, at least one spot being provided at each level running in the machine direction over the effective width of the carrier area. (Fig. 5)

With respect to **claim 44**: An intermediate carrier, the island material, for the closing system component 64 is formed by a separation in a first direction and by spaced-apart weakening via bending lines therebetween in a second direction as strip-shaped spots inasmuch as Tanzer discloses that the spots can be rectangular and may have lines free of fastener island 64. (¶¶0019,0064)

With respect to **claim 53**: Tanzer discloses a strip material having a longitudinal direction of extent that can be divided by separating across the longitudinal direction of extent to form individual usages, fastener tapes 60, meeting all of the structural and functional limitations of claim 70. (¶0099)

With respect to **claim 54**: Tanzer discloses a roll of strip material meeting all of the limitations of claims 53 and 70 for reasons stated *supra* in the rejections of those claims. (¶0096)

With respect to **claim 55**: Tanzer discloses a diaper 20 having a fastening tape 60 meeting all of the structural and functional limitations of claim 70. (Fig. 8)

With respect to **claim 67**: The plurality of strip-shaped spots 64 disclosed by Tanzer comprises at least two strips 64 along the first direction wherein the strips are rectangular and thus lie parallel to the first direction and substantially parallel to one another (¶0061), whereas in the second direction along the profile of the strips, the strips are provided with an edge variation in



the form of a change in elevation between the island edge and the top of flexible layer 78. (Fig. 6) Thus the strips disclosed by Tanzer comprise weakenings which are spaced apart from one another with a constriction of the strips comprising a tapering in the profile (i.e. the change in elevation) so that defined bending lines are obtained in the first direction along the dividing lines of the individual strip-shaped spots and, approximately perpendicular thereto, are obtained weaker but nevertheless perceptible further bending lines.

With respect to **claim 69**: The fastening tape 60 disclosed by Tanzer meets all of the structural and functional limitations of claim 77, wherein the hook component on the edge section comprises separated hooks on the edge section of the islands/carriers 64. (Fig. 6)

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***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

16. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al ('144).

With respect to **claim 65**: Tanzer discloses that there are rows of islands that extend substantially the length of the tape 60, including edge spots that are applied. Thus, though Tanzer does not explicitly disclose that, when separating the tapes, edge spots extending over a bordering edge are severed, Tanzer fairly suggests spots that are located on the edge of a tape fastener and thus suggests a method wherein when separating the individual fastening tapes, edge spots extending over a bordering edge are severed by virtue of disclosing the step of cutting a continuous roll of fastener material, which would inevitably result in severing of said edge spots. It would therefore be obvious to one of ordinary skill in the art to modify the method of Tanzer such that, when separating the individual fastening tapes, edge spots extending over a bordering edge are severed, so that when the tapes are in use they do not inadvertently or prematurely attached to undesired components on the diaper.

17. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al ('144) in view of Cinelli et al (U.S. Patent Application Publication No. 2003/0212416).

With respect to **claim 84**: Tanzer discloses a diaper 20 having a fastening tape 60 meeting all of the structural and functional limitations of claim 70. (Fig. 8) Tanzer discloses a fastening tape for a hygiene item comprising: (a) a fastening area for permanent attachment to the hygiene item; (b) a closing area for simultaneous detachable joining to a surface of the hygiene item, said

closing area comprising first and second areas, said first area having a shear-off securing component of a two-component mechanical fastening system and said second area having a pop-off securing fastener; (c) a plurality of spot-shaped carriers within a carrier area defined by said spot-shaped carriers, each spot-shaped carrier carrying the shear-off securing component, wherein a selected set of said plurality of spot-shaped carriers comprises a plurality of edge carriers, each edge carrier forming a respective portion of a border of the carrier area along an edge section of the edge carrier; (d) a fastening carrier fastened to said spot-shaped carriers; and (e) a bending line running through the carrier area. Examiner interprets separation force herein as referring to peel force. Tanzer does not disclose that the pop-off securing means comprising adhesive of the free adhesive layer is selected in the closing area such that the adhesive adheres to a back sheet of the diaper with a separation force of more than  $0.05 \text{ N/cm}^2$ , preferably more than  $0.1 \text{ N/cm}^2$ , especially preferably more than  $0.15 \text{ N/cm}^2$ . Cinelli discloses a hydrogel adhesive having a peel force of  $0.1\text{-}5 \text{ N/cm}^2$ , which overlaps the claimed range. Cinelli discloses that such adhesive has enhanced cohesiveness which would ensure the fastener tape remains securely fastened during movement of the wearer. Therefore, it would be obvious to one of ordinary skill in the art to modify the article of Tanzer by using the adhesive of Cinelli in the pop-off securing means of the closing area to provide enhanced cohesiveness and securement during wear. ('416, ¶¶0012,0110)

***Allowable Subject Matter***

18. Claims 40, 44, 53-55, 67, 70, 76, 79, 81 and 83 are allowed.

***Reasons for Allowance***

19. The following is an examiner's statement of reasons for allowance:

a. With respect to independent claims 70 and 81, the applicant amended the claims to recite a pop-off securing fastener comprising an adhesive layer that comprises at least first and second adhesives extending respectively over first and second longitudinal portions of the fastening carrier. The closest prior art of record, the Tanzer reference, does not disclose a second or any additional adhesives to that used to coat the interior surface of layer 74 and thus does not disclose or suggest at least first and second adhesives extending respectively over first and second longitudinal portions of the fastening carrier. Claims 53 and 55 recite an article having a fastening tape according to claim 70 and are thus allowed. Claims 40, 44, 54, 67, 79 and 83 depend directly or ultimately from any one of claims 53, 70 and 81 and are thus also allowed.

b. With respect to independent claim 76, the applicant amended the claims to recite a pop-off securing fastener comprising an open adhesive surface that comprises at least first and second adhesives extending respectively over first and second longitudinal portions of the fastening carrier. The closest prior art of record, the Tanzer reference, does not disclose a second or any additional adhesives to that used to coat the interior surface of layer 74 and thus does not disclose or suggest at least first and second adhesives extending respectively over first and second longitudinal portions of the fastening carrier.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/  
Primary Examiner, Art Unit 3761